

Document NO. 5157
ADOPTED 4/6/89

HOUSING CREATION PROPOSAL

Charlestown Housing
by
Navy Yard-Biotechnical
Research Associates
Limited Partnership



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MEMORANDUM

APRIL 6, 1989

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ANTHONY WILLIAMS, ASSISTANT DIRECTOR FOR NEIGHBORHOOD
HOUSING AND DEVELOPMENT, AND
PENN MOULTON, SPECIAL ASSISTANT

SUBJECT: HOUSING CREATION PROPOSAL SUBMITTED BY THE NAVY YARD
BIOTECHNICAL RESEARCH ASSOCIATES LIMITED PARTNERSHIP

EXECUTIVE

SUMMARY: The Navy Yard-Biotechnical Research Associates Limited Partnership (the "NYBRA"), developer of Building 149 in the Charlestown Navy Yard, has submitted a linkage proposal which would commit its remaining \$2,255,847 linkage obligation to cause the creation of affordable housing within the Charlestown neighborhood. Approval of this Housing Creation Proposal is requested.

On April 19, 1985, the Boston Redevelopment Authority executed the Development Impact Project ("DIP") Agreement submitted by The Congress Group (succeeded in interest by the NYBRA) regarding the project known as Building 149 in the Historic Monument Area of the Charlestown Navy Yard. Building 149 is a warehouse dating from World War II, containing 642,361 square feet of rehabilitated first class office space.

Under the Boston Zoning Code Article 26, and as set forth in the DIP Agreement, the developer of Building 149 is obligated to a "linkage" payment or Development Impact Project ("DIP") Exaction due to the City of \$2,711,805 over 12 years. Two payments of \$225,983.75 each, or \$451,967.50, has already been paid. The NYBRA has the option of paying to the Neighborhood Housing Trust the remainder of this Exaction in ten (10) annual installments (the "Housing Payment Option"), or submitting for approval one or more Housing Creation projects which contribute at least an equivalent value to directly aid the development of affordable housing in the City of Boston (the "Housing Creation Option").

The NYBRA has elected to satisfy the remainder of its Development Impact Project Contribution pursuant to its Housing Creation Option. Since the Building 149 project is located in the Charlestown neighborhood of the City of Boston, and since Charlestown is a neighborhood which has been disproportionately impacted by the development "boom" in the City of Boston, the NYBRA has chosen to cause the creation of affordable housing in one or more housing developments within the Charlestown neighborhood. The developer proposes to target initially four housing developments in varying stages of ripeness as recipients of linkage funds, which are the Main Street Townhouses, Parcel P-2A, Parcel R-87, and the

Bricklayers project to be sited in Charlestown.

Pursuant to the flexibility allowed by Section 3 of the Housing Creation Regulations, the proposed mechanism for implementing the Housing Creation Option is either to deposit the present value of the remaining linkage obligation into an escrow account to be managed by the Trust, or to commit the remaining ten (10) stream payments, as and when they are due and payable, to an escrow account for the benefit of Charlestown housing. If the present value option is chosen, in accordance with Section 5 of the Boston Redevelopment Authority's Housing Creation Regulations, a discount rate will be applied to the annual DIP Exaction payments to determine the present value of the linkage obligation. The present value will be paid into an escrow account for the benefit of the Charlestown housing pipeline, and the interest will accrue to the benefit of the Neighborhood Housing Trust. The determination of which option is the most appropriate rests upon the resolution of financial variables internal to the NYBRA. Regardless of the method chosen, however, the NYBRA desires to use its linkage obligation to benefit affordable housing in Charlestown.

Once this proposal is approved, individual awards will be made based on individual Housing Creation Proposals to be submitted to the Trust and the Authority. To the extent that the initially targeted projects do not account for the total Building 149 linkage obligation, the NYBRA anticipates that future Charlestown neighborhood housing developments will be able to demonstrate a need for linkage assistance from the Building 149 linkage commitment.

The individual Housing Creation proposals for the above-noted projects, therefore, remain for later review by the Neighborhood Housing Trust and the Boston Redevelopment Authority. The NYBRA requests approval of this Charlestown Housing Creation Proposal which will provide the basis for above-noted later individual Housing Creation Proposals.

Appropriate votes follow:

VOTED: That the Boston Redevelopment Authority finds after consideration of the evidence submitted at a public hearing on this date, April 6, 1989, regarding the Housing Creation Proposal submitted by the Navy Yard-Biotechnical Research Limited Partnership ("NYBRA"), that (1) the NYBRA is obligated to pay exactly \$2,711,805 in Development Impact Project ("DIP") Exactions pursuant to Article 26A of the Boston Zoning Code and a Development Impact Project ("DIP") Agreement entered into by the Congress Group (succeeded in interest by the NYBRA) on April 19, 1985; and (2) that two payments of \$225,983.75 each, or \$451,967.50, has already been paid; and (3) that the remaining DIP Exaction is \$2,259,837;

and (4) that the NYBRA submitted on March 29, 1989 a Housing Creation Proposal pursuant to Section 26A - 3.2 of the Boston Zoning Code and the Housing Creation Regulations promulgated by the Boston Redevelopment Authority on April 17, 1986; and (5) that the Neighborhood Housing Trust has reviewed said Proposal and has made recommendations to the Boston Redevelopment Authority with regard thereto; and (6) that but for the commitment of linkage funding to Charlestown housing said housing would not be built; and (7) that application of the DIP Exactions from the NYBRA as proposed in its Charlestown Housing Creation Proposal is necessary and appropriate to the development of said affordable housing in Charlestown, and (8) that any individual Charlestown housing project desiring a specific amount of said funds shall submit to the Neighborhood Housing Trust and the Boston Redevelopment Authority an individual Housing Creation Proposal so requesting.

AND FURTHER VOTED: That the Charlestown Housing Creation Proposal submitted to the Neighborhood Housing Trust by the NYBRA on March 29, 1989 is approved as submitted together with any conditions recommended in the Trust's vote of March 29, 1989 and with such minor modifications to the proposal as may be necessary (copies of the vote appended hereto and incorporated by reference herein), and that the Boston Redevelopment Authority accepts the DIP Exaction payments on behalf of the Trust, if appropriate, for use in conformity with the Housing Creation Proposal, and the NYBRA is authorized to elect either: a) to Present Value its remaining DIP Exaction, and if so, that the Director is authorized to determine a discount rate by the method set forth in Section 5 of the Housing Creation regulations adopted by the Boston Redevelopment Authority on April 17, 1986 upon submission of documentation by the NYBRA satisfactory to the Director and to determine the resulting Present Value as defined in said Housing Creation Regulations, and further to deposit said funds into an escrow account for the benefit of Charlestown housing, the interest upon which shall accrue to the Neighborhood Housing Trust, and the terms and conditions of which shall be set forth in an Escrow Agreement, pending individual Housing Creation Proposals for Charlestown housing projects; or b) to commit the remaining ten (10) DIP Exaction payments, as and when they are due and payable, to the benefit of Charlestown housing, said payments to remain in escrow at the Authority pending the submission of individual Housing Creation Proposals for Charlestown housing projects, the interest upon which shall accrue to the Neighborhood Housing Trust, and the terms and conditions of said commitment may be set forth as appropriate in a Memorandum of Agreement among the Boston Redevelopment Authority, the Neighborhood Housing Trust and the NYBRA;

and that the Director is authorized further to issue a Certificate of Compliance to the NYBRA upon request pursuant to Section 10 of the Housing Creation Regulations upon compliance by the NYBRA with the requirements imposed upon the NYBRA by Article 5 of said DIP Agreement and these votes; and

FURTHER VOTED: That the Director be authorized to enter into and execute such documents as may be necessary to implement the NYBRA's Charlestown Housing Creation Proposal and to ensure the successful development of affordable housing in Charlestown, each on such terms and conditions as the Director may deem necessary and/or appropriate to the successful implementation of said documents.

WITNESSETH: That the Chair is authorized to recommend to the Boston Redevelopment Authority that the Charlestown Housing Creation Proposal submitted by the NYBRA on April 4, 1984 to assist in the creation of low- and moderate-income housing in Charlestown, as approved as submitted, together with such minor amendments as may be required to implement said affordable housing developments; and further, that if the individual projects within this Proposal which are targeted as the Charlestown housing pipeline have not submitted individual Housing Creation Proposals for review and approval by the Neighborhood Housing Trust and the Boston Redevelopment Authority within twelve (12) months of even date, this vote shall be subject to further review and possible amendment by the Trust and the Boston Redevelopment Authority; and

FURTHER WITNESSETH: That the Neighborhood Housing Trust authorizes the Boston Redevelopment Authority, if requested by the NYBRA Group, acting by its Director to accept the NYBRA's Development Impact Contributions on behalf of the Trust to be held in escrow pursuant to the terms of this Housing Creation Proposal.

Voted unanimously 4/5/88.

NEIGHBORHOOD HOUSING TRUST

By: Lawrence S. Sizer
Chair

VOTE OF THE NEIGHBORHOOD HOUSING TRUST

Approved at a Meeting of the Neighborhood Housing Trust

April 5, 1989

The following votes were taken at the April 5, 1989 meeting of the Neighborhood Housing Trust:

VOTED: That the Chair is authorized to recommend to the Boston Redevelopment Authority that the Charlestown Housing Creation Proposal submitted by the NYBRA on April 5, 1989 to assist in the creation of Low- and Moderate-Income housing in Charlestown, be approved as submitted, together with such minor amendments as may be required to implement said affordable housing developments; and further, that if the individual projects within this Proposal which are targeted as the Charlestown housing pipeline have not submitted Individual Housing Creation Proposals for review and approval by the Neighborhood Housing Trust and the Boston Redevelopment Authority within twelve (12) months of even date, this vote shall be subject to further review and possible amendment by the Trust and the Boston Redevelopment Authority; and

FURTHER VOTED: That the Neighborhood Housing Trust authorizes the Boston Redevelopment Authority, if requested by the NYBRA Group, acting by its Director to accept the NYBRA's Development Impact Contributions on behalf of the Trust to be held in escrow pursuant to the terms of this Housing Creation Proposal.

Voted unanimously 4/5/89. Very truly yours,

NEIGHBORHOOD HOUSING TRUST

By: Lawrence Dwyer
Chair

Navy Yard—Biotechnical Research Associates
Limited Partnership

149 Thirteenth Street, Charlestown, MA 02129
(617) 241-7700 Fax # 242-3486

March 30, 1989

Mr. Stephen Coyle, Director
Boston Redevelopment Authority
Boston City Hall, 9th Floor
One City Hall Square
Boston, MA 02201

Re: Housing Creation Proposal for NYBRA/Building 149

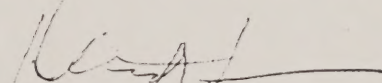
Dear Mr. Coyle:

Pursuant to the provisions of paragraph 5 of our Development Impact Project ("DIP") Agreement, NYBRA (as successors in interest to the Congress Group, original signor of the DIP Agreement) is pleased to submit to you the enclosed proposal to create affordable housing in Charlestown in satisfaction of the remainder of our Development Impact Exaction Payments.

We propose either to present value the remainder of our annual payments, or to commit the remainder of the linkage stream to the Charlestown housing pipeline, consisting of Main Street Townhouses, Parcel P-2, Parcel R-87, and the Bricklayers project to be sited in Charlestown. The proposed units for these four projects total 157, with a proposed affordability of 93, or 59%. By assisting these projects, it is our hope to make housing more affordable to the residents of Charlestown.

We are anxious to begin the necessary steps to implement this proposal for affordable housing.

Very truly yours,


David L. Francis
President

DLF/sah

cc: Tony Williams
John Leigh
Robert Rush
Penn Moulton

HOUSING CREATION PROPOSAL FOR

CHARLESTOWN HOUSING

BY

NAVY YARD-BIOTECHNICAL RESEARCH ASSOCIATES LIMITED PARTNERSHIP

CITY OF BOSTON

APRIL 5, 1989

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THE CHARLESTOWN HOUSING CREATION PROPOSAL

by

NAVY YARD-BIOTECHNICAL RESEARCH ASSOCIATES

The Navy Yard Building 149 Project Linkage Commitment

On April 19, 1985, the Boston Redevelopment Authority (the "BRA") executed the Development Impact Project Agreement (the "DIP Agreement") submitted by The Congress Group (succeeded in interest by the Navy Yard-Biotechnical Research Associates Limited Partnership (the "NYBRA")) regarding the project known as Building 149 in the Historic Monument Area of the Charlestown Navy Yard. Building 149 is a warehouse dating from World War II, containing exactly 642,361* square feet of rehabilitated first class office space.

Under the Boston Zoning Code Article 26, and as set forth in the DIP Agreement, the 542,361 square feet of office space subject to Article 26 results in a "linkage" payment or Development Impact Project ("DIP") Exaction due to the City of \$2,711,805 over 12 years. Two payments of \$225,983.75 each, or \$451,967.50, has already been paid. The NYBRA has the option of paying the remainder of this Exaction in ten (10) annual installments, (the "Housing Payment Option") or submitting for approval one or more Housing Creation projects which contribute at least an equivalent value to directly aid the development of affordable housing in the City of Boston (the "Housing Creation Option").

Pursuant to its Housing Creation Option, the NYBRA has elected to satisfy the remainder of its Development Impact Project Contribution under the Housing Creation Regulations by channeling this value to the Charlestown housing pipeline. Through the submission of this Housing Creation Proposal, the NYBRA seeks to satisfy the remainder of its linkage obligation by establishing a mechanism to help Charlestown housing projects both now and in the future.

*As certified by Architect's Certificate. (The first 100,000 sq. ft. are not subject to the DIP exaction requirement.)

THE CHARLESTOWN HOUSING CREATION PROPOSAL

Since the Building 149 project is located in the Charlestown neighborhood of the City of Boston, and since Charlestown is a neighborhood which has been disproportionately impacted by the development "boom" in the City of Boston, the NYBRA has chosen to cause the creation of affordable housing in one or more housing developments within the Charlestown neighborhood. The developer proposes to target initially four housing developments in varying stages of ripeness as recipients of linkage funds. The proposed technical mechanism for such a targeting is either:

- 1) to deposit the present value of the remaining linkage obligation into an escrow account; or
- 2) to commit the remaining ten (10) annual stream payments, as and when they are due and payable, to an escrow account for the benefit of Charlestown housing.

The determination of which option is the most appropriate rests upon the resolution of financial variables internal to the NYBRA. If the NYBRA decides to present value its remaining CNY Building 149 linkage obligation, at an estimated discount rate of 12.5%*, the present value of the remaining ten payments totalling \$2,259,837 is approximately \$1,248,720. If the NYBRA does not chose to present value its obligation, the nominal value of the remaining payments is \$2,259,837. This (nominal or present) amount is believed sufficient to achieve affordability in the pipelines projects identified below.

Regardless of the method chosen, however, the NYBRA desires to use its linkage obligation to benefit affordable housing in Charlestown.

Once the funds are committed for the benefit of Charlestown housing, individual awards will be made based on individual Housing Creation Proposals to be submitted to the Neighborhood Housing Trust and the Boston Redevelopment Authority. The interest from either escrow account will accrue to the Trust. To the extent that the following projects do not account for the total Building 149 linkage obligation, the NYBRA anticipates that future Charlestown neighborhood housing developments will be able to demonstrate a need for linkage assistance from the Building 149 linkage commitment.

*The discount rate will be determined by the Boston Redevelopment Authority pursuant to the Housing Creation Regulations upon submission of appropriate documentation.

The Charlestown Pipeline Projects - Overview

The Navy Yard-Biotechnical Research Associates, the Boston Redevelopment Authority, and the Charlestown Neighborhood Council support the concept of dedicating the total Building 149 linkage obligation to Charlestown affordable housing projects for the following reasons:

- o The NYBRA desires to see community benefits serving the same community which is affected by the NYBRA's development;
- o The BRA's tradition of granting community benefits to the neighborhoods most impacted by large development has been a successful example of the Boston public-private partnership;
- o The citizens of Charlestown believe that they have not benefitted fairly from Boston's development boom, but have had to suffer disproportionately the consequences of traffic impacts, job displacement and housing inflation.

Charlestown, in common with the South End and Chinatown, is a neighborhood which has directly experienced the negative impacts of the new development boom. The South End's Tent City project and Chinatown's Waterford Place project are examples wherein the City of Boston specifically earmarked funds from major developments for the creation of affordable housing in heavily impacted neighborhoods.

Similarly, Charlestown is a geographically isolated neighborhood whose historic boundaries have shrunk over the last fifty years due to development pressures - development which did not necessarily benefit the neighborhood. Long-time Charlestown residents have been directly and negatively affected by both the downtown development boom and the Charlestown Navy Yard's development: they have lost jobs that once utilized their blue collar skills; they have suffered (and will continue to suffer) from increased traffic congestion and resulting transportation construction; and they have been displaced by the "yuppification" of affordable housing in their neighborhood. In addition, Charlestown has supported the infusion of one of the largest placements of BHA housing units per capita in the entire City. It is time for the City to recognize the unique Charlestown situation and assist the community in combating housing displacement by utilizing Charlestown-generated linkage dollars for Charlestown affordable housing.

Pursuant to this demonstrated need for affordable housing in a disproportionately impacted neighborhood, the following are the Charlestown housing projects which are expected to attain building permits within the next twelve (12) months.

Present Pipeline Charlestown Housing Projects:

<u>Project</u>	<u>Status</u>	<u>Units</u>	<u>Aff Units</u>	<u>Status of Need</u>
C-2A	Built	32	13	Immediate
P-2A	Pre-Development Planning (TD)	42	22	Seed Funding
R-87	Preliminary Planning (RFP)	16	8	Future
BL II	To be sited	<u>67</u>	<u>50</u>	Future
TOTAL		157	93	

The CEDC Housing Proposal - (Parcel C-2A)

The Charlestown Economic Community Development Corporation (CEDC) has produced housing in an area of Charlestown which was blighted and vacant for many years. There are now twenty-six townhouses, including six two-family units built on the Main Street, Sullivan Square site, thirteen of which are affordable to Moderate-Income Households. The remaining thirteen were to be sold at market rates. Due to well-known difficult market conditions, the sales of the market rate units are progressing very slowly, resulting in carrying costs which the development budget cannot support. The project also suffered cost overruns, which, as an affordable development, it could not absorb.

CEDC will be presenting within the next month one of the above-noted individual Housing Creation Proposals to the Neighborhood Housing Trust and to the Boston Redevelopment Authority requesting the commitment of additional funds as are required to achieve desired levels of affordability.

Demonstration of Need for Funding for P-2A

For Gate 5 Associates successfully to complete development plans and receive construction and permanent financing for its development on Parcel P-2A, Gate 5 Associates must now undertake preliminary feasibility studies. Therefore there must be available sufficient funds to cover the costs of pre-construction legal, design, engineering and consulting services, financing application and permit fees, and other miscellaneous pre-development costs. These costs are estimated at approximately \$400,000. Gate 5 will be presenting a subsequent individual Housing Creation Proposal to the Neighborhood Housing Trust and to the Boston Redevelopment Authority requesting the commitment of such additional funds as may be required to achieve desired levels of affordability.

Demonstration of Need for Funding for R-87.

A Request for Proposals (RFP) was issued for this 47,298 sq. ft. parcel located at the corners of Tremont, Prospect, and Edgeworth Streets in Charlestown. There was extensive community process and abutter input into the production of the RFP, yielding the criteria of sixteen (16) two- and three-bedroom units with basements, 50% affordability, and a 10,000 sq. ft. community playground. Two proposals were received on January 23, responding to the criteria. The process of reviewing proposals and selection will take place by May. The site will be difficult to develop because of a difference in grade level and ledge which runs through the site. This could cause higher than average construction or site work costs, rendering the project an appropriate linkage candidate. If necessary, and when appropriate, R-87 will be presenting a subsequent individual Housing Creation Proposal to the Neighborhood Housing Trust and to the Boston Redevelopment Authority requesting the commitment of such additional funds as may be required to achieve desired levels of affordability.

Demonstration of Need for Funding for the Bricklayers Project to be Sited in Charlestown.

The developer of the award-winning Navy Yard Rowhouses in Charlestown Navy Yard, Bricklayers Non-Profit Housing and Development Corporation (BLNHC) has begun the designs for a second project in Charlestown which has not yet been sited. This project contemplates 70 units, with 50 (71%) affordable units. If

necessary, and when appropriate, BLNHC will be presenting a subsequent individual Housing Creation Proposal to the Neighborhood Housing Trust and to the Boston Redevelopment Authority requesting the commitment of such additional funds as may be required to achieve desired levels of affordability.

Final Steps

Once this proposal is approved, there remain several steps in order for the NYBRA to meet fully its linkage obligations. They include:

ALTERNATIVE I

- (1) if appropriate, determination of the present value of the NYBRA linkage upon submission of appropriate documentation; and
- 2) payment of that amount into escrow on behalf of (this) approved Housing Creation Proposal; and
- 3) execution of a Memorandum of Agreement and Escrow Agreement between the appropriate parties, as appropriate; and
- 4) a Request for a Certificate of Compliance;

OR

ALTERNATIVE II

- 1) a determination to commit the ten (10) remaining annual stream payments, as and when they are due and payable, to an escrow account for the benefit of (this) approved Housing Creation Proposal; and
- 2) execution of a Memorandum of Agreement and Escrow Agreement between the appropriate parties, as appropriate; and
- 3) a request for a Certificate of Compliance.

Assuming an election between the above alternatives and satisfactory completion of each of these steps, the NYBRA will have no further obligation under the Article 26 of the Zoning code and will have met its linkage obligations (subject to payment either of the present value amount or the balance of payments due). Under the terms of this Charlestown Housing Creation Proposal, the Neighborhood Housing Trust and the Boston Redevelopment Authority may then proceed to entertain subsequent Housing Creation proposals for Charlestown pipeline projects for the final commitment of the Building 149 linkage funds to Charlestown housing projects.

Conclusion

Navy Yard-Biotechnical Research Associates Limited Partnership is seeking approval of this Charlestown Housing Creation Proposal.

Pursuant to this Proposal, it is anticipated that the four Charlestown pipeline housing developments will come forward in fiscal 1989-90 and present Individual Housing Creation Proposals to the Neighborhood Housing Trust and the Boston Redevelopment Authority requesting the commitment of such Building 149 funds as may be required to achieve desired levels of affordability.

The NYBRA is proud to submit the Charlestown Housing Creation proposal. It looks forward to working with the Boston Redevelopment Authority, the Neighborhood Housing Trust and the City of Boston to gain acceptance of this proposal in a manner which will ensure the success of the development of housing in Charlestown for the benefit of Low- and Moderate-Income families.

MEMORANDUM

APRIL 5, 1989

TO: NEIGHBORHOOD HOUSING TRUST

FROM: ANTHONY WILLIAMS, ASSISTANT DIRECTOR FOR NEIGHBORHOOD
HOUSING AND DEVELOPMENT FOR THE BOSTON REDEVELOPMENT
AUTHORITY, AND
PENN MOULTON, SPECIAL ASSISTANT

SUBJECT: HOUSING CREATION PROPOSAL SUBMITTED BY THE NAVY YARD-
BIOTECHNICAL RESEARCH ASSOCIATES LIMITED PARTNERSHIP

EXECUTIVE

SUMMARY: The Navy Yard-Biotechnical Research Associates Limited Partnership (the "NYBRA"), developer of Building 149 in the Charlestown Navy Yard, has submitted a linkage proposal which would commit its remaining \$2,255,847 linkage obligation to cause the creation of affordable housing within the Charlestown neighborhood. Approval of this Housing Creation Proposal is requested.

On April 19, 1985, the Boston Redevelopment Authority executed the Development Impact Project ("DIP") Agreement submitted by The Congress Group (succeeded in interest by the NYBRA) regarding the project known as Building 149 in the Historic Monument Area of the Charlestown Navy Yard. Building 149 is a warehouse dating from World War II, containing 642,361 square feet of rehabilitated first class office space.

Under the Boston Zoning Code Article 26, and as set forth in the DIP Agreement, the developer of Building 149 is obligated to a "linkage" payment or Development Impact Project ("DIP") Exaction due to the City of \$2,711,805 over 12 years. Two payments of \$225,983.75 each, or \$451,967.50, has already been paid. The NYBRA has the option of paying to the Neighborhood Housing Trust the remainder of this Exaction in ten (10) annual installments (the "Housing Payment Option"), or submitting for approval one or more Housing Creation projects which contribute at least an equivalent value to directly aid the development of affordable housing in the City of Boston (the "Housing Creation Option").

The NYBRA has elected to satisfy the remainder of its Development Impact Project Contribution pursuant to its Housing Creation Option. Since the Building 149 project is located in the Charlestown neighborhood of the City of Boston, and since Charlestown is a neighborhood which has been disproportionately impacted by the development "boom" in the City of Boston, the NYBRA

has chosen to cause the creation of affordable housing in one or more housing developments within the Charlestown neighborhood. The developer proposes to target initially four housing developments in varying stages of ripeness as recipients of linkage funds, which are the Main Street Townhouses, Parcel P-2A, Parcel R-87, and the Bricklayers project to be sited in Charlestown.

Pursuant to the flexibility allowed by Section 3 of the Housing Creation Regulations, the proposed technical mechanism for implementing the Housing Creation Option is either to deposit the present value of the remaining linkage obligation into an escrow account to be managed by the Trust, or to commit the remaining ten (10) stream payments, as and when they are due and payable, to an escrow account for the benefit of Charlestown housing. (If the present value option is chosen, in accordance with Section 5 of the Boston Redevelopment Authority's Housing Creation Regulations, a discount rate will be applied to the annual DIP Exaction payments to determine the present value of the linkage obligation. The present value will be paid into an escrow account for the benefit of the Charlestown housing pipeline, and the interest will accrue to the benefit of the Neighborhood Housing Trust.) The determination of which option is the most appropriate rests upon the resolution of financial variables internal to the NYBRA. Regardless of the method chosen, however, the NYBRA desires to use its linkage obligation to benefit affordable housing in Charlestown.

Once this proposal is approved, individual awards will be made based on individual Housing Creation Proposals to be submitted to the Trust and the Authority. To the extent that the initially targeted projects do not account for the total Building 149 linkage obligation, the NYBRA anticipates that future Charlestown neighborhood housing developments will be able to demonstrate a need for linkage assistance from the Building 149 linkage commitment.

The individual Housing Creation proposals for the above-noted projects, therefore, remain for later review by the Neighborhood Housing Trust and the Boston Redevelopment Authority. The NYBRA requests approval of this Charlestown Housing Creation Proposal which will provide the basis for above-noted later individual Housing Creation Proposals.

Appropriate votes follow:

VOTED: That the Chair is authorized to recommend to the Boston Redevelopment Authority that the Charlestown Housing Creation Proposal submitted by the NYBRA on April 5, 1989 to assist in the creation of Low- and Moderate-Income housing in Charlestown, be approved as submitted, together with such minor amendments as may be required to implement said affordable housing developments; and

FURTHER VOTED: That the Neighborhood Housing Trust authorizes the Boston Redevelopment Authority, if requested by the NYBRA Group, acting by its Director to accept the NYBRA's Development Impact Contributions on behalf of the Trust to be held in escrow pursuant to the terms of this Housing Creation Proposal.

MEMORANDUM

APRIL 6, 1989

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ANTHONY WILLIAMS, ASSISTANT DIRECTOR FOR NEIGHBORHOOD
HOUSING AND DEVELOPMENT, AND
PENN MOULTON, SPECIAL ASSISTANT

SUBJECT: HOUSING CREATION PROPOSAL SUBMITTED BY THE NAVY YARD
BIOTECHNICAL RESEARCH ASSOCIATES LIMITED PARTNERSHIP

EXECUTIVE

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Under the Boston Zoning Code Article 26, and as set forth in the DIP Agreement, the developer of Building 149 is obligated to a "linkage" payment or Development Impact Project ("DIP") Exaction due to the City of \$2,711,805 over 12 years. Two payments of \$225,983.75 each, or \$451,967.50, has already been paid. The NYBRA has the option of paying to the Neighborhood Housing Trust the remainder of this Exaction in ten (10) annual installments (the "Housing Payment Option"), or submitting for approval one or more Housing Creation projects which contribute at least an equivalent value to directly aid the development of affordable housing in the City of Boston (the "Housing Creation Option").

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developer proposes to target initially four housing developments in varying stages of ripeness as recipients of linkage funds, which are the Main Street Townhouses, Parcel P-2A, Parcel R-87, and the Bricklayers project to be sited in Charlestown.

Pursuant to the flexibility allowed by Section 3 of the Housing Creation Regulations, the proposed mechanism for implementing the Housing Creation Option is either to deposit the present value of the remaining linkage obligation into an escrow account to be managed by the Trust, or to commit the remaining ten (10) stream payments, as and when they are due and payable, to an escrow account for the benefit of Charlestown housing. (If the present value option is chosen, in accordance with Section 5 of the Boston Redevelopment Authority's Housing Creation Regulations, a discount rate will be applied to the annual DIP Exaction payments to determine the present value of the linkage obligation. The present value will be paid into an escrow account for the benefit of the Charlestown housing pipeline, and the interest will accrue to the benefit of the Neighborhood Housing Trust.) The determination of which option is the most appropriate rests upon the resolution of financial variables internal to the NYBRA. Regardless of the method chosen, however, the NYBRA desires to use its linkage obligation to benefit affordable housing in Charlestown.

Once this proposal is approved, individual awards will be made based on individual Housing Creation Proposals to be submitted to the Trust and the Authority. To the extent that the initially targeted projects do not account for the total Building 149 linkage obligation, the NYBRA anticipates that future Charlestown neighborhood housing developments will be able to demonstrate a need for linkage assistance from the Building 149 linkage commitment.

The individual Housing Creation proposals for the above-noted projects, therefore, remain for later review by the Neighborhood Housing Trust and the Boston Redevelopment Authority. The NYBRA requests approval of this Charlestown Housing Creation Proposal which will provide the basis for above-noted later individual Housing Creation Proposals.

Appropriate votes follow:

VOTED: That the Boston Redevelopment Authority finds after consideration of the evidence submitted at a public hearing on this date, April 6, 1989, regarding the Housing Creation Proposal submitted by the Navy Yard-Biotechnical Research Limited Partnership ("NYBRA"), that (1) the NYBRA is obligated to pay exactly \$2,711,805 in Development Impact Project ("DIP") Exactions pursuant to Article 26A of the Boston Zoning Code and a

Development Impact Project ("DIP") Agreement entered into by the Congress Group (succeeded in interest by the NYBRA) on April 19, 1985; and (2) that two payments of \$225,983.75 each, or \$451,967.50, has already been paid; and (3) that the remaining DIP Exaction is \$2,259,837; and (4) that the NYBRA submitted on March 29, 1989 a Housing Creation Proposal pursuant to Section 26A - 3.2 of the Boston Zoning Code and the Housing Creation Regulations promulgated by the Boston Redevelopment Authority on April 17, 1986; and (5) that the Neighborhood Housing Trust has reviewed said Proposal and has made recommendations to the Boston Redevelopment Authority with regard thereto; and (6) that but for the commitment of linkage funding to Charlestown housing said housing would not be built; and (7) that application of the DIP Exactions from the NYBRA as proposed in its Charlestown Housing Creation Proposal is necessary and appropriate to the development of said affordable housing in Charlestown, and (8) that any individual Charlestown housing project desiring a specific amount of said funds shall submit to the Neighborhood Housing Trust and the Boston Redevelopment Authority an individual Housing Creation Proposal so requesting.

AND FURTHER VOTED: That the Charlestown Housing Creation Proposal submitted to the Neighborhood Housing Trust by the NYBRA on March 29, 1989 is approved as submitted together with any conditions recommended in the Trust's vote of March 29, 1989 and with such minor modifications to the proposal as may be necessary (copies of the vote appended hereto and incorporated by reference herein), and that the Boston Redevelopment Authority accepts the DIP Exaction payments on behalf of the Trust, if appropriate, for use in conformity with the Housing Creation Proposal, and the NYBRA is authorized to elect either: a) to Present Value its remaining DIP Exaction, and if so, that the Director is authorized to determine a discount rate by the method set forth in Section 5 of the Housing Creation regulations adopted by the Boston Redevelopment Authority on April 17, 1986 upon submission of documentation by the NYBRA satisfactory to the Director and to determine the resulting Present Value as defined in said Housing Creation Regulations, and further to deposit said funds into an escrow account for the benefit of Charlestown housing, the interest upon which shall accrue to the Neighborhood Housing Trust, and the terms and conditions of which shall be set forth in an Escrow Agreement, pending individual Housing Creation Proposals for Charlestown housing projects; or b) to commit the remaining ten (10) DIP Exaction payments, as and when they are due and payable, to the benefit of Charlestown housing, said payments to remain in escrow at the

Authority pending the submission of individual Housing Creation Proposals for Charlestown housing projects, the interest upon which shall accrue to the Neighborhood Housing Trust, and the terms and conditions of said commitment may be set forth as appropriate in a Memorandum of Agreement among the Boston Redevelopment Authority, the Neighborhood Housing Trust and the NYBRA; and that the Director is authorized further to issue a Certificate of Compliance to the NYBRA upon request pursuant to Section 10 of the Housing Creation Regulations upon compliance by the NYBRA with the requirements imposed upon the NYBRA by Article 5 of said DIP Agreement and these votes; and

FURTHER VOTED: That the Director be authorized to enter into and execute such documents as may be necessary to implement the NYBRA's Charlestown Housing Creation Proposal and to ensure the successful development of affordable housing in Charlestown, each on such terms and conditions as the Director may deem necessary and/or appropriate to the successful implementation of said documents.

Approved

April

9/1987

for the

BRA BOARD

BUILDING 149
CHARLESTOWN NAVY YARD

DEVELOPMENT IMPACT PROJECT AGREEMENT

AGREEMENT made this 19th day of April 1985 by and between Constitution Office Park Associates Limited Partnership, a Massachusetts limited partnership, having a principal place of business at 286 Congress Street, Boston, Massachusetts 02210 (the "Applicant") and the Boston Redevelopment Authority, a body politic and corporate created pursuant to Chapter 652 of the Acts of 1960, as amended (the "Authority") acting on its own behalf and as escrow agent for the Neighborhood Housing Trust as defined in Section 26-2 of Article 26 of the Boston Zoning Code (the "Trust"). The Applicant and Authority, collectively, are herein referred to as the parties.

WHEREAS, the Applicant proposes to develop in accordance with the Lease Commencement Agreement with the Authority dated July 12, 1984 (the "LCA") the Building 149 site located in the Historic Monument Parcel in the Charlestown Navy Yard (the "Site"), which Site is more particularly described on Exhibit 1 annexed hereto; and

WHEREAS, the Applicant proposes to rehabilitate Building 149 for office and retail use (the "Project") which constitutes a "Development Impact Project" as defined in Section 26-2 of Article 26 of the Boston Zoning Code as in effect on the date hereof; and

WHEREAS, the Applicant has submitted to the Authority a Development Impact Project Plan for such Project (the "Plan") complying with the requirements of Section 26-2, subparagraph 2 of Article 26; and

WHEREAS, the Authority, after a public hearing held on April 18, 1985, notice of which hearing was published in the Boston Herald on April 10, 1985, has approved such Development Impact Project Plan pursuant to Section 26-3, subparagraph 1 of Article 26 on April 18, 1985; and

WHEREAS, the Neighborhood Housing Trust contemplated by Article 26 has not yet been established as of the date hereof;

NOW, THEREFORE, the parties hereto agree as follows:

1. Capitalized terms used herein without definition shall have the meanings described in Section 26-2 of Article 26.
2. Applicant agrees to develop and carry out the Project as described in the Plan in accordance with the LCA.
3. The parties agree that the Project to be developed by Applicant upon the Site constitutes a mixed use project combining the following uses enumerated in Table C of subparagraph 2(a) of Section 26-3 of Article 26:

<u>Use</u>	<u>Use Item Number</u>
Office	39, 41,
Retail, Business and Service	34, 37, 38, 43, 44, 46

and that the gross floor area of said Project devoted to one or more of the foregoing uses in the aggregate will exceed 100,000 square feet. The exact gross floor area of such Project to be devoted to such uses will be determined based upon the Contract Documents for the Project approved by the Authority pursuant to the Authority's Design Review Procedure. Contract Documents as used herein shall have the meaning described in the Authority's Design Review Procedure referenced in the LCA.

4. Within thirty (30) days following approval by the Authority of the Contract Documents for the Project, the Applicant shall submit to the Authority a calculation of gross floor area, made in accordance with the requirements of the Boston Zoning Code, of those portions of the Project devoted to the uses described in paragraph 2 above (the "Impact Area"). Such calculation shall be certified by Huygens & DiMella, Incorporated or any successor architectural firm approved by the Authority in accordance with the LCA.

5. The Applicant shall be responsible, in accordance with the terms of this Agreement, for the payment of a Development Impact Project Exaction, as defined in Section 26-2(3) of the Boston Zoning Code. The Applicant hereby agrees to satisfy the Development Impact Project Exaction, determined by multiplying the certified Impact Area, pursuant to paragraph 5 above, in excess of 100,000 square feet by Five (\$5.00) Dollars. Based upon the schematic design for the Project approved by the Authority, it is estimated that the total amount of such

Development Impact Project Exaction will be Two Million Seven Hundred Fifty Thousand and 00/100 Dollars (\$2,750,000), calculated as follows:

Total Project less Mechanical Equipment Space	650,000 s.f.
Minus	<u>100,000 s.f.</u>
	550,000 s.f.
Times	x <u>5.00</u>
Total	\$2,750,000

The Applicant may, at its option, satisfy its obligation for the Development Impact Project Exaction by either 1) the payment of money to the City of Boston acting by and through the Neighborhood Housing Trust, or if such Trust has not been created, then to the Authority or 2) a contribution to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston.

If the Applicant elects to satisfy this responsibility pursuant to option 1, it must submit the total of the Development Impact Project Exaction, as determined by the formula set forth above in twelve equal annual payments. The initial payment shall be due and payable on the Payment Date. (The Payment Date is 24 months after the issuance of the first building permit obtained in connection with the Project or on the issuance of a Certificate of Occupancy whichever occurs sooner.) The subsequent installment payments shall be due and payable without accruing interest on the subsequent eleven anniversary dates of the initial Payment Date.

Should the Applicant elect to satisfy its responsibility pursuant to option 2, it shall submit to the Authority a written proposal on or before the Payment Date, setting forth a description of the number, location, cost and design of the housing units. The proposal must satisfy the Housing Creation Exaction requirement, set forth in subparagraph 3(b) of Section 26-2 of Article 26 of the Boston Zoning Code and shall provide for the creation of housing units at a minimum cost equal to the Development Impact Project Exaction as determined by the formula set forth above. This proposal shall be subject to approval of the Authority after public notice and hearing.

6. As security for the payment of installments of the Development Impact Project Exaction subsequent to the first installment, the Applicant shall provide for the benefit of the Authority one or more letters of credit in the aggregate amount of 11/12 of the amount of the Development Impact Project Exaction as so calculated. Such letter or letters of credit shall be provided to the Authority on the date of payment of the first installment of such Development Impact Project Exaction. Applicant may provide such letter or letters of credit having expiration dates earlier than the expiration of the 11-year period during which subsequent installments of the Development Impact Project Exaction are required in accordance with Article 26, provided that such letters of credit shall authorize the Authority to draw upon them if not replaced at least 30 days prior to their expiration date. Letters of credit to be provided by the Applicant as required by this paragraph 6 shall be substantially in the form of Exhibit 2 annexed hereto.

The principal amount of such letter or letters of credit may be reduced by Applicant after payment by Applicant to the Authority of any installment of the Development Project Impact Exaction, such principal reduction to be in an amount equal to the installment payment then made by the Applicant. The Authority will take all steps necessary to enable Applicant to implement such reduction, including providing its written assent to any amendment to such letter or letters of credit, if required by the issuer thereof, or the exchange of the letter or letters of credit held by the Authority for one or more substitute letters of credit having the lower principal amount.

The Authority agrees that no general or limited partner of the Applicant shall have any personal liability for the obligations of the Applicant hereunder. The Authority agrees to look only to the assets of the Applicant in the event of any breach by Applicant of its obligations hereunder; provided, however, that from and after the delivery by the Applicant to the Authority of the letter or letters of credit described in this Paragraph 6, the Authority shall look solely to the proceeds of such letters of credit as security for the performance of the obligations of the Applicant with regard to the Development Impact Project Exaction, it being understood that the Authority shall thereafter look to no other assets of the Applicant, including, without limitation, the Project or the right to the use and occupancy thereof, in the event of a breach by the Applicant of its obligations hereunder.

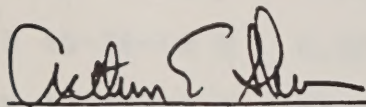
7. The Applicant is required to enter into the First Source Agreement with the Neighborhood Development and Employment Agency of the City of Boston in accordance with the provisions of the LCA and the proposed lease by and between the Applicant and the Authority for the Project. The First Source Agreement will specify the Applicant's undertakings relating to the hiring of Boston residents for Project jobs and requires the Applicant to pursue the Workforce Composition Goals, as defined in Exhibit A to the First Source Agreement, in the staffing of the Project and encouraging Project tenants to pursue such Workforce Composition Goals.

8. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and, except as otherwise provided in paragraph 6 above, notwithstanding any subsequent amendment or repeal (or court decision having the effect of amendment or repeal) of Article 26, shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto, including, without limitation, any successor owner of all or any portion of the Project and the Trust as successor to the Authority as and when such Trust shall be established.

Executed the day and date first above written.

CONSTITUTION OFFICE PARK
ASSOCIATES LIMITED PARTNERSHIP
By: The Congress Group, Inc.,
General Partner

Approved as to form:



Chief General Counsel
Boston Redevelopment Authority

By: _____

BOSTON REDEVELOPMENT AUTHORITY

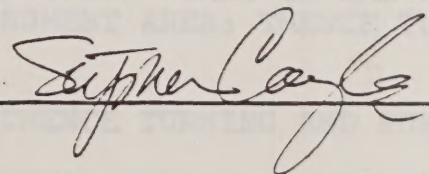
By: 

EXHIBIT 1

A CERTAIN LEASE PARCEL OF LAND IN THE COMMONWEALTH OF MASSACHUSETTS, COUNTY OF SUFFOLK, CITY OF BOSTON, CHARLESTOWN DISTRICT, SITUATED ON THE NORTHEASTERLY SIDE OF NINTH STREET AND IS SHOWN AS A BUILDING LEASE AREA CONTAINING BUILDING 149 ON A "PLOT PLAN OF LAND IN CHARLESTOWN, MA ..." DATED 14 DECEMBER 1984, rev. 25 MARCH 1985 BY SURVEY ENGINEERS OF BOSTON, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY SIDELINE OF NINTH STREET SAID POINT BEING THE SOUTHERLY CORNER OF SAID PARCEL, THENCE RUNNING

N 40-44-52 W 89.30 FEET TO A POINT; THENCE TURNING AND RUNNING

S 49-15-08 W 4.00 FEET TO A POINT, SAID LAST TWO COURSES BEING BY THE SIDELINE OF NINTH STREET; THENCE TURNING AND RUNNING

N 40-44-52 W 28.35 FEET PARTIALLY BY THE SIDELINE OF NINTH STREET AND PARTIALLY BY THE REMAINING LAND OF THE HISTORIC MONUMENT AREA TO A POINT; THENCE TURNING AND RUNNING

N 49-23-51 E 4.79 FEET TO A POINT; THENCE TURNING AND RUNNING

N 40-36-09 W 93.40 FEET TO A POINT; THENCE TURNING AND RUNNING

N 49-23-51 E 384.95 FEET TO A POINT; THENCE TURNING AND RUNNING

N 40-36-09 W 6.00 FEET TO A POINT; THENCE TURNING AND RUNNING

N 49-23-51 E 50.00 FEET TO A POINT; THENCE TURNING AND RUNNING

S 40-36-09 E 6.00 FEET TO A POINT; THENCE TURNING AND RUNNING

N 49-23-51 E 23.62 FEET TO A POINT ON THE SIDELINE OF THIRTEENTH STREET SAID LAST SEVEN COURSES BEING BY THE REMAINING LAND OF THE HISTORIC MONUMENT AREA; THENCE TURNING AND RUNNING

S 40-32-47 E 14.50 FEET TO A POINT; THENCE TURNING AND RUNNING

N 49-27-13 E 0.50 FEET TO A POINT; THENCE TURNING AND RUNNING

S 40-32-47 E 22.00 FEET TO A POINT; THENCE TURNING AND RUNNING

S 49-27-13 W 0.50 FEET TO A POINT; THENCE TURNING AND RUNNING

S 40-32-47 E 184.09 FEET TO A POINT SAID LAST FIVE COURSES BEING BY THE SOUTHWESTERLY SIDELINE OF THIRTEENTH STREET; THENCE TURNING AND RUNNING

3-51 W 285.00 FEET TO A POINT; THENCE TURNING AND RUNNING

9 W 9.55 FEET TO A POINT; THENCE TURNING AND RUNNING

3-51 W 173.84 FEET TO THE POINT OF BEGINNING SAID LAST THREE
COURSES BEING BY THE REMAINING LAND OF THE HISTORIC
MONUMENT AREA.

AREA CONTAINS 99,974 SQUARE FEET, MORE OR LESS.

TO AND WITH THE BENEFIT OF ANY AND ALL EXISTING EASEMENTS,
ING A FOOTING EASEMENT ALONG THIRTEENTH STREET AS SHOWN ON
AN.

A CERTAIN PORTION OF FOUR OVERHEAD BRIDGES IN THE COMMONWEALTH OF MASSACHUSETTS, COUNTY OF SUFFOLK, CITY OF BOSTON, CHARLESTOWN DISTRICT, SITUATED OVER THIRTEENTH STREET AND SHOWN AS 4 OVERHEAD BRIDGES ON A "PLOT PLAN OF LAND IN CHARLESTOWN, MA ..." DATED 14 DECEMBER 1984, rev. 25 MARCH 1985 BY SURVEY ENGINEERS OF BOSTON, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHWESTERLY SIDELINE OF THIRTEENTH STREET 2.59 FEET NORTHWESTERLY FROM AN ANGLE POINT IN SAID STREET BEING THE SOUTHERLY CORNER OF SAID PARCEL, THENCE RUNNING

N 40-32-47 W 13.00 FEET TO A POINT; THENCE TURNING AND RUNNING

N 49-14-24 E 51.54 FEET TO A POINT; THENCE TURNING AND RUNNING

S 40-42-12 E 13.00 FEET TO A POINT; THENCE TURNING AND RUNNING

S 49-14-24 W 51.58 FEET TO THE POINT OF BEGINNING SAID LAST FOUR COURSES BEING ALONG THE SAID FOUR OVERHEAD BRIDGES ABOVE THIRTEENTH STREET.

SAID PORTION OF OVERHEAD BRIDGE AREA CONTAINS 666 SQUARE FEET, MORE OR LESS.

SUBJECT TO AND WITH THE BENEFIT OF ANY AND ALL EXISTING EASEMENTS, AS SHOWN ON SAID PLAN.

>

Exhibit 2

Clean Standby Undertaking-Irrevocable

Date _____, 1984

Boston Redevelopment Authority
One City Hall Square
Boston, Massachusetts 02108

Gentlemen:

By the order of,

Constitution Office Park Associates Limited Partnership
c/o The Congress Group, Inc.
286 Congress Street
Boston, Ma.

We hereby open in your favor our Irrevocable Letter of Credit for the account of Constitution Office Park Associates Limited Partnership for a sum or sums not exceeding a total of US. Dollars \$ _____ (_____ Dollars) available by your draft at SIGHT on _____ (Name of Issuer) at _____ (City), _____ (State) effective and expiring in Boston on _____, 198_.

A draft under this letter of credit must be accompanied by the following documents:

1. a written statement purporting to be executed by an authorized officer of the Boston Redevelopment Authority in either of the form of Exhibit A or Exhibit B attached hereto, as may then be appropriate

AND

2. this Letter of Credit.

Partial drawings under this Letter of Credit are permitted.

Each draft must bear upon its face the clause "Drawn under Letter of Credit No. _____ dated _____, 198_ of _____ (Bank), _____ (City), _____ (State).

Except so far as otherwise expressly stated herein, this Letter of Credit is subject to the "Uniform Customs and Practice for Documentary Credits (1974 Revision)", International Chamber of Commerce Publication 290."

We hereby agree with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the above mentioned drawee bank on or before _____ (Date).

Very truly yours,

Authorized Official

EXHIBIT A

_____, 19__

[Name and Address of Issuing Bank]

Attention:

Gentlemen:

The undersigned hereby certifies as follows:

1. that he/she is the Director of the Boston Redevelopment Authority and is duly authorized to deliver this Certificate;

2. that Constitution Office Park Associates Limited Partnership being the "Applicant" under a certain Development Impact Project Agreement dated April , 1985 between the said Constitution Office Park Associates Limited Partnership and the Boston Redevelopment Authority (the "DIP Agreement") is required to maintain with the Boston Redevelopment Authority one or more letters of credit to secure the obligation of Constitution Office Park Associates Limited Partnership to make payment of the Development Impact Project Exaction described in the DIP Agreement;

3. that your letter of credit No. _____ in favor of the undersigned will expire within the period of thirty (30) days or less from the date of this certificate; and

4. the obligation to maintain such letter of credit continues under the DIP Agreement and Constitution Office Park Associates Limited Partnership has not replaced or renewed the letter of credit previously provided.

Executed this _____ day of _____, 19__.

Boston Redevelopment Authority

By: _____
Director
hereunto duly authorized

EXHIBIT B

_____, 19__

[Name and Address of Issuing Bank]

Attention:

Gentlemen:

The undersigned hereby certifies as follows:

1. that he/she is the Diretor of the Boston Redevelopment Authority and is duly authorized to deliver this Certificate; and

2. that Constitution Office Park Associates Limited Partnership being the "Applicant" under a certain Development Impact Project Agreement dated April , 1985 between the said Constitution Office Park Associates Limited Partnership and the Boston Redevelopment Authority (the "DIP Agreement") has defaulted in its obligation to make an installment payment in the amount of _____ Dollars (\$ _____) of the Development Impact Project Exaction described in the DIP Agreement, which installment payment was due and payable on _____, 19__.

Executed this _____ day of _____, 19__.

Boston Redevelopment Authority

By: _____
Director
hereunto duly authorized

11/8/88

DRAFT

HOUSING CREATION AGREEMENT

BETWEEN

AND

AND

THE BOSTON REDEVELOPMENT AUTHORITY

This agreement is entered into as of this ____ day of _____, 198__ by and between _____ and its legal representatives, having a mailing address at _____, (the "Contributor"), and _____, having a mailing address at _____, and its legal representatives (the "Developer"), and the Boston Redevelopment Authority, a public body corporate and politic duly organized and existing pursuant to the provisions of Chapter 652 of the Acts of 1960, as amended (the "Authority"), which Authority acts on its own behalf and as escrow agent for the Neighborhood Housing Trust (the "Trust") as defined in Article 26 of the Boston Zoning Code.

WHEREAS, _____ (Contributor) entered into an agreement with the Authority on _____ (the "DIP Agreement") in connection with the commercial redevelopment of _____, a project containing approximately _____ square feet of (office, retail, etc. space) as defined in Section 26-3(2) (a)&(b) of the Zoning Code (the "Project"); and

WHEREAS, pursuant to Article 26 of the Boston Zoning Code, and the terms of the DIP Agreement, more particularly, Section ____ therein, the Contributor is responsible for payment of an exaction of approximately \$ _____ (the "DIP Exaction") of which _____ has been paid and of which the remaining _____ total \$ _____; and

WHEREAS, pursuant to Article 26 of the Boston Zoning Code and Section 3 of the Housing Creation Regulations, the obligation of the Contributor for payment of the DIP Exaction may, at the election of the Contributor, be satisfied in part by a contribution to the creation of housing units for occupancy exclusively by Low and Moderate Income Residents of the City of Boston (the "Housing Creation Option"); and

WHEREAS, the Contributor has elected to satisfy in part its obligation for payment of the DIP Exaction by choosing the Housing Creation Option; and

WHEREAS, the Contributor submitted to the Authority on _____, 198_, a proposal for the creation of affordable housing units in accordance with Section _____ of the DIP Agreement and Article 26, Section 26-3.2 of the Boston Zoning Code (the "Housing Creation Proposal"); and

WHEREAS, the Trust voted to recommend that the Authority approve the Housing Creation Proposal, and the Authority, after notice and public hearing, approved the Housing Creation Proposal on _____, 198_; and

WHEREAS, the Housing Creation Proposal states that the Contributor proposes to meet its obligation in part by assenting to, and cooperating in the contribution of _____ remaining annual DIP Exaction payments which total \$ _____ directly to the development of affordable housing projects in the _____ neighborhood of the City of Boston; and

WHEREAS, the Authority granted final designation to the Developer on _____, 198_ to redevelop Disposition Parcel _____ located on approximately _____ square feet of land in _____ (the "Housing Development Site"); and

WHEREAS, Developer recognizes the need to provide housing for Low- and Moderate-Income Residents in the City of Boston and has agreed that not less than _____ dwelling units will be maintained as Affordable Units; and

WHEREAS, the Developer must (e.g., conduct preliminary architectural and financial feasibility studies) and requires a grant of approximately \$ _____ (present/nominal value) to assist them in the development of this Housing Development Site and to leverage additional funds to assure construction of the Housing Development; and

WHEREAS, the total Present Value of the Housing Creation Option selected by the Contributor is approximately \$ _____, of which \$ _____ will be allocated to the Housing Development; and

WHEREAS, the Director of the Authority is authorized to enter into this Agreement pursuant to Section 9 of the Housing Creation Regulations, and by vote of the Authority dated _____, 198_;

NOW, THEREFORE, the Parties do hereto mutually agree as follows:

Section 1. Definitions

For all purposes of this Agreement, the following terms, when capitalized, shall have the meanings indicated below.

(a) "Affordable Units" shall mean the dwelling units which the Developer shall develop and maintain for use and occupancy by Low- and Moderate-Income Households, as set forth in Section 2 of this Agreement.

(b) "Agreement" shall mean this Housing Creation Agreement.

(c) "Authority" shall mean the Boston Redevelopment Authority, a body politic and corporate, organized under Massachusetts General Laws, Chapter 121B and existing pursuant to the provisions of Chapter 652 of the Acts of 1960, with offices at One City Hall Square, Boston, Massachusetts 02201, its successors and assigns.

(d) "Certificate of Occupancy" shall mean the certificate of occupancy issued by the City for the Project.

(e) "City" shall mean the City of Boston, Massachusetts.

(f) "Contribution Date" shall mean _____, 198_, which is the date _____.

(g) "Contributor" shall mean _____, having a mailing address _____ and its successors and assigns.

(h) "Developer" shall mean the _____ and with a mailing address at _____ and its successors and assigns.

(i) "DIP Agreement" shall mean the Development Impact Project Agreement between _____ and the Authority, dated _____, 198_.

(j) "DIP Exaction" shall mean the payment of approximately \$_____ to the City, acting by and through the Trust and/or through the Trust's escrow agent, the Authority, for the creation of housing units for occupancy exclusively by Low and Moderate Income Households of the City, in accordance with the DIP Agreement.

(k) "Effective Date" shall mean the date upon which this Agreement shall be executed, dated and deemed effective by the Parties.

(l) "Housing Creation Contribution" shall mean the payment of funds by the Contributor to the Authority for the express purpose of creating Affordable Units in the Housing Development, as set forth in Section 3 of this Agreement.

(m) "Housing Creation Funds" shall mean the funds in the amount of \$_____ which represent a portion of the Housing Creation Contribution designated for use by the Developer in accordance with this Agreement.

(n) "Housing Creation Option," also known as the "Housing Creation Exaction" pursuant to Section ____ of the DIP Agreement, shall mean the obligation to create, or to cause to be created, housing units for occupancy exclusively by Low and Moderate Income Households of the City in order to satisfy, in part, the Contributor's obligation for payment of an exaction or contribution as required, respectively, by Articles 26 and 26A, as applicable.

(o) "Housing Creation Proposal" shall mean the proposal submitted by the Contributor on _____ for the creation of housing units for occupancy exclusively by Low- and Moderate-Income Households of the City, as set forth in Section 2 of this Agreement.

(p) "Housing Creation Regulations" shall mean the Housing Creation Regulations promulgated by the Authority on April 17, 1986 pursuant to Articles 26 and 26A of the Boston Zoning Code.

(q) "Housing Development" shall mean the housing development to be constructed by the Developer, as set forth in Section 2 of this Agreement.

(r) "Housing Development Site" shall mean Disposition Parcel _____ of the _____ Urban Renewal Plan located on approximately _____ square feet of land in _____.

(s) "Low-Income Household" shall mean a household where the total income of the members thereof at the initial occupancy does not exceed fifty percent (50%) of the median income for the Boston Standard Metropolitan Area as set forth in or calculated based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, as amended.

(t) "Moderate-Income Household" shall mean a household where the total income of the members thereof at the initial occupancy does not exceed eighty percent (80%) of the median income for the Boston Standard Metropolitan Area as set forth in or calculated based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, as amended.

(u) "Mortgage" shall mean the lien placed on the project property and recorded at the Suffolk County Registry of Deeds which secures the Note and this Agreement.

(v) "Note" shall mean the Promissory Note executed between the Developer and the Trust dated _____ in the amount of \$ _____.

(w) "Parties" shall mean the Authority, Contributor and Developer, and their respective successors or assigns, collectively or individually, as the context requires.

(x) "Project" shall mean the project developed by the Contributor and approved by the Authority in accordance with the DIP Agreement.

(y) "Trust" shall mean the Neighborhood Housing Trust, a Massachusetts public charitable trust created under the laws of the Commonwealth on November 19, 1985, administered by the Collector-Treasurer of the City as managing trustee, signed by the managing trustee on September 3, 1987 and filed with the City Clerk on September 18, 1987.

Section 2. Obligations of Developer

(a) Developer shall develop _____ dwelling units on the Housing Development Site in accordance with the final designation granted by the Authority on _____, 198_. _____ of the _____ Units shall be Affordable Units, which shall consist of _____ (_____ Low-/_____ Mod/Townhouse/condo, etc). There shall be _____ market-rate units.

(b) Developer shall use the Housing Creation funds exclusively for the purpose of a portion of the construction and development of the _____ Project, except as described below in Paragraph (g).

(c) Developer acknowledges that it will hold the DIP Exaction funds in a segregated escrow account; said funds will be used solely for the benefit of the _____ project. To the extent that DIP Exaction funds are advanced prior to either the acquisition by the Developer of the _____ Housing Development Site or the closing of the construction loan, they shall be used for hard construction and acquisition costs only. To the extent that DIP Exaction funds are released after the acquisition by the Developer of the _____ Housing Development Site and the closing of the construction loan, these funds may be used for any of the costs specified in Exhibit B. Both the Developer and the Authority shall be signatories to any payments from said account. Further, said payments shall be based upon invoices reasonably acceptable to the Authority. Developer agrees that the Authority shall review and consent to the Escrow Agreement between the Developer and the bank administering the segregated escrow account, which consent shall not be unreasonably withheld.

d) Developer agrees to grant to the Authority on its own behalf and as escrow agent for the Trust a Note (to be executed at the same time as this Agreement) and Mortgage (upon conveyance of the Project property) to secure the DIP Exaction funds advanced. The Authority shall provide partial releases to be held in escrow by the _____ Developer or _____ Developer's _____ construction

lender with instructions that the Mortgage granted to the Authority be partially released for each unit as the Developer's construction loan is partially released. The aggregate amount of said Note(s) shall be reduced in equal increments of 1/___ as the Affordable units are sold.

(e) Developer represents that the total development cost of the Housing Development is approximately \$_____. Developer represents the following financing commitments: _____

In the event that the commitment for the Construction Loan is revoked through no fault of the Authority, or if the Developer, through no fault of the Authority, defaults on repayment of the Construction Loan during the term of this Agreement, the Authority may consider the revocation of commitment of the Construction Loan or the default of such loan by Developer to be a material breach of this Agreement and in such case reserves the right to terminate this Agreement, and shall have recourse against the Developer according to the provisions of Section 15 below.

(f) In the event that the Developer fails to secure necessary financing, or if necessary financing is terminated through no fault of the Authority, or if the Developer reneges on its commitment to maintain Affordable units in accordance with Section 2(a) above, the Authority reserves the right to terminate this Agreement in accordance with the provisions of Section 15 below.

(g) Developer shall enter into an Affirmative Fair Housing Marketing Agreement that complies with the City of Boston Fair Housing and Employment Plan and shall submit said Affirmative Fair Housing Marketing Agreement to the Authority for approval by the Director of the Authority within two months of securing the Construction Loan.

Section 3. Obligations of Contributor

(a) Contributor shall be responsible for the payment of a Housing Creation Contribution in accordance with the DIP contract signed between _____ and _____ on _____.

(b) Contributor hereby elects to satisfy its obligations under Article 26 and Section ____ of the DIP Agreement through the Housing Creation option. Accordingly, the Contributor consents to (terms of deal _____).

(c) To facilitate said Housing Creation option, Contributor shall cooperate in the (e.g. assignment, etc. to Developer or Developer's lender, as specified by Developer, of the DIP Agreement and the Letter of Credit required by the DIP Agreement in the amount of \$_____).

(d) Full payment by the Contributor of the Housing Creation Contribution shall not relieve the Contributor of its obligations under the DIP Agreement except with regard to payment of the annual installment of the DIP Exaction. All other obligations of the DIP Agreement remain in effect and subsequent installments of the DIP Exaction shall be due and payable, without accruing interest, on the remaining _____ anniversary dates of the initial Contribution Date.

(e) The entire balance of the outstanding Housing Creation Contribution payable under this Agreement, as well as the entire balance of any outstanding payments and financial obligations due pursuant to the DIP Agreement, shall become immediately due and payable either upon the bankruptcy, reorganization, dissolution or liquidation of the Developer, or upon the sale, partial sale, refinancing, exchange, transfer, sale under foreclosure, or other disposition of the Project unless the obligations of the Contributor under this Agreement and under the DIP Agreement have been formally delegated or assigned with the approval of the Authority; provided, however, that such approval shall not be unreasonably withheld or delayed.

Section 4. Obligations of Authority

(a) The Authority, acting on its own behalf and as escrow agent for the Trust, shall (e.g., assign the DIP Agreement, any payments made pursuant thereto and held in escrow by the Authority, and the Letter of Credit which secures the DIP Agreement to the Developer or Developer's lender,) upon the execution of this Agreement and the execution of the Note. The Mortgage shall be executed simultaneously with the conveyance of the East Berkeley Street Housing Development Site.

(b) Upon (e.g., such assignment of the amount specified in Section 3(b) and such Letter of Credit,) and upon request of the Contributor, the Authority shall issue to the Contributor a Certificate of Compliance to indicate full compliance with the terms of this Agreement.

(c) By execution and delivery of this Agreement and performance of its obligations hereunder, the Authority shall have no liability for, or beneficial interest of any kind in the Project or the Housing Development.

Section 5. Notices

All notices or other communication required or permitted to be given under this Agreement shall be in writing, signed by a duly authorized officer of the Contributor, Developer and Authority and shall be deemed delivered if mailed, postage prepaid, by registered or certified mail, return receipt requested, to the principal office of the party to which it is directed, which is as follows unless otherwise designated by written notice to the other Parties:

Contributor:

with copy to:

Developer:

with copy to:

Authority: Boston Redevelopment Authority
One City Hall Square
Boston, MA 02201
ATTENTION: Director

with a copy to: Boston Redevelopment Authority
Building 33
Charlestown Navy Yard
Charlestown, MA 02129
ATTENTION: Chief General Counsel

Section 6. Transfer of Interest

Rights and interests accorded by this Agreement shall not be assigned, delegated, subcontracted or in any way transferred by the Developer without the prior written approval of the Authority.

Section 7. Liability

The Authority shall not be liable to Developer or any other party for the disbursement of Housing Creation Funds if Contributor fails to pay said funds in accordance with the DIP Agreement. No officer, director, agent or employee of the Authority shall have any personal liability for the payment or performance of the Authority's obligations under this Agreement. The Authority shall have no liability or beneficial interest of any kind in the Housing Development or the Project. Without limiting the generality of the foregoing, nothing in this Agreement shall expand or enlarge the obligations of Contributor under the DIP Agreement.

Section 8. Amendment

This Agreement, or any part hereof, may be amended from time to time hereafter only in writing executed by the Parties.

Section 9. Severability

Each and every covenant and condition contained in this Agreement is and shall be construed to be a separate and independent covenant and condition. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid and unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

Section 10. Table of Contents, Titles and Headings

The headings of the sections, subsections and paragraphs set forth herein are for convenience of reference only and are not a part of this Agreement and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 11. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the United States, the Commonwealth of Massachusetts, and the Ordinances, Rules and Regulations of the City of Boston.

Section 12. Record Notice of Agreement

The Developer shall record, at the Suffolk County Registry of Deeds, the Mortgage appended to this Agreement in a form reasonably satisfactory to the Parties.

Section 13. Successors and Assigns

Notwithstanding any subsequent amendment or repeal of Articles 26 and 26A of the Boston Zoning Code, as applicable, this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, including, without limitation, the Authority and any successor owner of all or any portion of the Project or the Housing Development.

Section 14. Books and Records

Developer shall keep and maintain accurate books, records, accounts, and other documents relating to the Project, including but not limited to, those relating to the allocation and expenditure of the Housing Creation Funds. Developer shall give access to the Authority and its authorized representatives at all reasonable times, upon receipt of reasonable notice, for the purpose of inspecting, copying, auditing and examining said books, records, accounts and documents.

Section 15. Enforcement

The Parties may enforce compliance with or the breach of any of the provisions of this Agreement by an action at law or equity in a court of appropriate jurisdiction. A defaulting party shall pay to the Authority all reasonable costs and expenses, including attorneys' fees, which may be incurred by the Authority in proceedings brought to enforce compliance, to the extent the Authority prevails. In the event that the Developer fails to comply with the production of ___ Affordable Units or any other obligations as required by this Agreement, the Authority may seek enforcement of the applicable provisions of this Agreement by an action at law or equity in a court of appropriate jurisdiction. No default by the Developer hereunder shall have any effect upon the performance by Contributor of the obligations of the Contributor under this Agreement or under the DIP Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on their behalf by their respective officers hereunto duly authorized as of the day and year first written above.

WITNESS:

CONTRIBUTOR:

By: _____

WITNESS:

DEVELOPER:

By: _____

WITNESS:

AUTHORITY: BOSTON REDEVELOPMENT
AUTHORITY

By: _____
Stephen Coyle, Director

Approved as to form:

Chief General Counsel
Boston Redevelopment Authority

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The Bricklayers Phase II project has not been sited yet



CHARLESTOWN LOCUS MAP



SITE MAP

